Quid Novi

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MCGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT DE L'UNIVERSITE McGILL

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FREE TRADE: A Bargain or a Bad Deal?

By Brad Condon

Hey , sailor! Did your ship just come into port? Looking for a good, duty-free time? If you are, free trade is the way to go, according to the majority of the speakers at McGill's Free Trade Conference.

The general theme of the conference was access to markets under the Canada-USA Free Trade Agreement (FTA). Four panels examined in turn the removal of trade barriers, guarantees of access, and access to the financial services industries and resources.

The first point made was that the FTA has yet to be adopted and implemented. It is by no means certain that it will be adopted in either country. An early federal election in Canada might frustrate the agreement. In addition, the Canadian senate might give Parliament a difficult time, as it has recently done over the Drug Patent Bill. Legislative implementation will require provincial cooperation. In the U.S., a change in the administration might equally frustrate their agreement.

Nonetheless, the mood at the conference was optimistic. Supporters of free trade were described as commercial freedom fighters. Most speakers examined the agreement on the assumption that it will indeed be successfully implemented and administered on both sides of the border.

The FTA removes tariff barriers in the largest bilateral trading relationship in the world. Tariffs can prevent the establishment of an industry. Then removal will affect investment patterns in North America. Presently, seventy-five per cent of Canada-US trade is duty-free. The FTA's goal is to make it one hundred percent duty-free.

Non-tariff barriers are more troublesome, however. They include such things as counter-vailing duties (applied to counter government subsidies) and anti-dumping duties (applied to products exported at prices lower than that paid in the exporting country). Much publicity was given to the non-tariff barriers raised against Canadian soft-wood lumber due to alleged Canadian government subsidies. (Hyundai has been accused of dumping by Ford and GM). The FTA does not change the substantive law in either country with respect to duties imposed to counter perceived unfair trade practices. It does, however, make procedural changes that are expected to make the dispute settlement process more efficient and less costly. Under the present system, the length of time and costs involved in trade disputes can act as effective barriers to trade where an exporter cannot afford to carry a dispute to its final determination. An American law professor suggested that future negotiations under both the FTA and the GATT might change the substantive laws as well. He proposed replacing the present anti-dumping law with uniform North American anti-trust laws since, in his view, they would effectively deal with unfair trade practices without acting so much as trade barriers.

A Canadian economist agreed with the foregoing proposal. In his view, by replacing trade laws with anti-trust laws (also known as unfair competition law) in a truly integrated North American economy, Canadian productivity would improve. This in turn would lend to substantial economic benefits for Canada. Interestingly, he felt that central Canada would be the principle beneficiary of improved productivity, since most of the technical, export-oriented industries are located there. He predicted, however, that job creation would not be greatly affected in either direction over the next ten years. Rather, wages would increase for skilled labour in technical industries.

The commentator on the first panel ended the discussion on the removal of trade barriers with two observations. First, he predicted that the FTA's rules of origin, which determine which goods travel duty -free on the basis of the origin of their various components, would make Canadian manufacturing

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ANNOUNCEMENTS

TALMUD CLASS

Every Tuesday, 1:00 p.m., Room 202
Taught by former student Greg Bordan
Everyone is welcome, no background is needed

* * *

BANQUET COMMITTEE

Meeting on Thursday at 1:00 p.m. in the L.S.A. Office.

* * *

LEGAL AID

Applications for director close today.
Please pick one up at SAO, in the Pit or at the Clinic.
These positions run for one year - there is a paid position for the summer and credits for the winter.

Dianne George.

* * *

BCL III CLASS PICTURE

BCL III Class Picture will be taken Wednesday March 2nd at 10:00 a.m. in the Common Room.

P.S. This time it's going to work out - the only thing that can be missing is YOU, so please attend without fail!

* * *

LASKIN ADVANCED MOOT/LA PLAIDOIRIE AVANCE LASKIN

Fifteen volunteers are required for March 11 and 12, 1988 to assist in the hosting of this year's Laskin Advanced Moot. Interest parties must be bilingual. Your reward: dinner at the Faculty Club. Those interested should please speak with Ali Argun.

La Faculté de Droit de McGill présente cette année la Plaidoirie avancé Laskin: quinze volontaires sont donc demandés pour assister à cet évènement le 11 et 12 mars 1988. Les parties interessées doivent être bilingues. Récompense: dîner au <Faculty Club>. Les interessés doivent communiquer avec Ali Argun.

* * *

ZOUK PARTY!!!

Thursday, March 3, 1988
John Bull Pub
[1201 de Maisonneuve West]

Merengue, biguine, rock, reggae...That's all you need on your return from Lecture Week! You are **all warmly** invited by the Institute of Comparative Law....

SOMETHING NEW ON THE SOCIAL SCENE

An entire disco has been booked for the exclusive frivolous benefit of this faculty's law students. One night in the not-so-distant future (March 25th) the Four Season's **ZIGZAG** Dance Emporium will witness law students **TWIST, SHOUT AND SWEAT** as never before. The "Metropolis" party should pale in comparison. Plan for it! Bring your friends!

Details will follow.

* * *

DELTA THETA PHI

Meeting for all members
Wednesday, March 2, 1988
Noon, Room 201
Topic: Upcoming Events
Everyone welcome
Executive *must* attend.

GRADUATING STUDENTS

Jostens is offering a special graduation ring opportunity to all students in their final year of the McGill National Program.

Normally, only the degree designation of LL.B. alone *or* B.C.L. alone is available on graduation rings for law students. However, if sufficient interest is shown (i.e., a minimum order of 10 rings), Jostens will prepare a special order which will include both degree designations on the ring at no additional cost. In addition, free engraving on the inside wall of the ring will be offered to students taking advantage of this opportunity (usually an extra $10.00). While this might not be an enormous saving on the basic price of approximately $270.00-280.00 (10k gold), nonetheless, I believe the rings would be truly unique and an excellent way to remember your law school. Now is the time to hit your rich grandmother for a graduation gift.

Anyone interested in these rings should contact me before February 29, 1988. I also have a picture of the ring to show those who may be interested. Samples of the rings can be viewed on the ground floor of the Bronfman Building, Mondays 9 - 1 p.m., Wednesdays 1 - 3 p.m. and Thursdays 11 - 1 p.m.

Rodney Garson, B.C.L. IV

Phone: 483-5672 or on the 3rd floor of the library.

The Abortion Controversy: Two Sides to Every Coin

By Joani Tannenbaum

In the best of all possible worlds, unwanted pregnancies don't exist. However, neither our world nor the people living in it are perfect. So unwanted pregnancies happen, and unwanted pregnancies lead to abortions for many women who, for reasons of their own, choose to terminate their pregnancy. The decision to end a pregnancy is probably one of the most difficult choices many women will ever have to face in their lives, and now the Supreme Court of Canada has decided that that choice is one ultimately left to the woman. In a recent landmark decision, the Court struck down s.251 of the Criminal Code (which required a hospital committee to approve the abortion if it threatened the health and safety of the woman) on the grounds that it violated s.7 of the *Canadian Charter of Rights and Freedoms*, namely the right to life, liberty and security of the person.

While approving of the primary objective of the provision, that of balancing the competing interests of the foetus and the pregnant woman, the majority held that the procedural requirements unduly infringed on a woman's physical and psychological integrity.

This is not to deny that past a certain stage, the state has the right if not the duty to intervene in order to protect the foetus. If a woman has not decided by a given date whether or not to complete her pregnancy, the balance of competing interests weighs more heavily in favour of the foetus. However, state intervention is *only* justified past this given date; up to this point, the decision whether or not to have an abortion should be left solely to the woman.

Canada is a nation founded on the principle of respect for the individual. This means that whether or not we agree with the opinions, ideas or lifestyle of any one particular person, we must respect the choices they make. In the words of Madame Justice Wilson, "Liberty in a free and democratic society does not require the state to approve such decisions but it does require the state to respect them. A woman's decision to terminate her pregnancy falls within this class of protected decisions. It is one that will have profound psychological, economic and social consequences for her. It is a decision that deeply reflects the way the woman thinks about herself and her relationship to others and to society at large. It is not just a medical decision; it is a profound social and ethical one as well."

Threatening a person who has opted not to complete a pregnancy, as well as the doctor who performed the operation, with a prison term is not the solution. The criminal law exists to protect the physical and emotional integrity of the people living in a given society. In order for a particular type of conduct to be sanctioned by criminal punishment, it must be considered as a potential threat to the order and stability of the community, by the community. In other words, society as a whole must perceive this behavior as potentially harmful and inconsistent with its own existence. Whether or not to permit abortions is essentially a moral consideration. However, contemporary Canadian society does not consider that the decision of a woman to have an abortion without state approval poses a threat to the stability of this country. The statements of Madame Justice Wilson are proof that the highest court in the land understands this general sentiment.

And while the judgment was acclaimed as a victory for Canadian women, it has succeeded in galvanizing anti-abortion camps across the land. This is an issue that no matter how many times it comes before the courts, the losing side is never going to acquiesce to judicial interpretation of the interests involved. No matter what steps are taken by governments, they will be considered insufficient by one group or another. This is a no-win situation, a political nightmare. Whether someone is pro-choice or anti-abortion is not discernible by examining their financial, political, ethnic or religious background, for each individual has their own ideas in this controversy.

Abortion is not about procedural rights or political pressure groups. It is not about the rights of the collectivity versus the rights of the individual. It is about the right of a woman to direct her life according to her own set of values. Because it is essentially an individual decision, and the woman is the one who must live with the consequences long after the initial decision has been taken.

Another Side of the Coin

By Dianne George

There is very little objection to be made of the actual holding in *R* v. *Morgentaler*, since four of the seven Supreme Court justices held that s. 251 of the Criminal Code was procedurally unfair and therefore was unconstitutional. The judgment, however, is bristling with implications that are much more unsettling for those of us opposed to abortion. Because it discusses the issue of abortion in terms of individual rights, we fear that there will be, at best, competing rights offered to the fetus in the next decision. It is more likely that the fetus will be offered a form of protection, falling far short of human rights.

It is my contention that both these decisions will have taken us nowhere down the road to resolving this issue. Perhaps no issue could show more plainly the limitations of the law in resolving problems of deep social and moral division in a community. The law must look at the rights of individuals, particularly in Canada, now that we have the Charter which orders the courts to protect our

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Editor-in-Chief / Rédactrice-en-chef: Joani Tannenbaum

Associate Editor / Rédacteur adjoint: Normand Perreault

English Editor / Rédacteur anglais: Brad Condon

French Editor / Rédactrice française: Jeanne Cadorette

Production Manager / Directeur de gestion: Ron Lauenstein

Staff/ Membres

Saritha Anjilvel
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Phillip Pike
Teresa Scassa
Dan Urbas
David Wallbridge
Geeta Bharadia

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MONTREAL LAW FIRMS:
RECRUITING IN THE DARK AGES

By Peter Hoffmann, David Lametti, Kenneth Aboud , Teresa Scassa

Montreal is probably the last major North American city where law firms still employ obsolete and parochial recruiting practices. From employment brochures to rejection letters, few Montreal firms have managed to keep pace with their counterparts in other major centres.

Name recognition plays an extremely important role in which law firms students apply to, yet most Montreal firms still don't produce and make widely available employment information brochures. Surprisingly, some of the larger firms still feel they can get by with blurbs mimeographed on firm letter head. Xeroxed flyers aren't necessarily any less sophisticated than the slicker pamphlets, but they give the impression that a firm hasn't spent a great deal of time or money on its recruiting programme; and often that's precisely the case.

A professionally produced pamphlet isn't enough, however. It has to contain ***useful*** information about the firm, and that means more than just a history of the firm, or biographies of illustrious partners.

A good brochure will also include information on the firm's support staff and services, working environment, social activities, growth outlook, clientele, application procedure, and ***detailed*** information about its student and stagiaire programme. Some excellent examples: the pamphlets from Tilley, Carson & Findlay, and Osler, Hoskin & Harcourt, both Toronto firms.

Unfortunately, too many Montreal firms, both in their brochures and during interviews, are less than forthcoming about hire-back rates, salaries, student workloads, evaluation criteria, partnership admission policies and so on. Nor do they generally make available the names of recent summer students and stagiaires prospective applicants can contact.

A lack of forthrightness is even more prevalent during interviews. Again, many Montreal law firms are coy about tough questions: What exactly does the law firm pay? What facilities are provided for students? What is the hire-back rate? Evasive and vague answers to such queries are commonplace. What's worse, many firms answer such questions by referring to the practices of other firms, without ever giving a direct answer about their own firm.

Some firms may have good reason to be evasive. The fact of the matter is that they simply don't have good track records in these areas.

Sooner or later, however, students find out through the grapevine. Any firm that tries to hide such information will quickly discover that it's lack of candour starts to look foolish, since everyone finds out anyway.

The real problem for law firms is that the informal student network has the potential to distort or exaggerate information about a particular firm. Such distorted views eventually become widely held canons of truth which some firms find difficult if not impossible to counteract.

The interview process is an area where Montreal firms display an appalling lack of judgment. Too many firms permeate their interviews with arrogance or rudeness. Applicants are kept waiting, interviewers take calls during the interview, students are put on the spot to see how they react to aggressive questioning, or they aren't given the opportunity to ask questions, and the list goes on.

No matter how well the rest of the interview went, countless students have left interviews with an indelible dislike for a particular firm because of one rude, disrespectful or hostile question or interviewer. Incredibly, some firms actually designate a "heavy" to ask tough questions, a technique so outdated that

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Montreal Law Firms...
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it has been abandoned everywhere except Montreal.

Not only has the firm lost the goodwill of a future lawyer, very often it has inadvertently created a ***continuing source*** of bad publicity, especially if the particular student wasn't offered a job. Students who were treated poorly during an interview are sure to let their colleagues know about it.

The rejection letter is another common pitfall for Montreal firms. Even if the interview was courteous, a poorly drafted, gruff, or impersonal rejection letter can do the same damage as a bad interview. Yet, some firms insist on sending out brutal rejection letters, much like the thumbs down condemnation given Roman gladiators.

Most Toronto, Vancouver and New York firms have learned that treating every applicant with respect, even if the interviewer knows that the firm has no interest in ever hiring that individual, is good public relations. A good public image is in a firm's best interest, especially in a competitive hiring market.

Every applicant, even if rejected, can be a useful recruiting vehicle for a firm. By treating every student who applies like a valued friend, a firm can create goodwill amongst students generally which makes it easier to recruit those students the firm really wants.

For most firms, that means ***professional*** and detailed employment brochures, punctual, ***polite,*** and honest interviews, and ***considerate*** rejection letters. In some cases, it even means lunch or dinner invitations for especially qualified applicants. These are all areas in which most Montreal firms could benefit from some soul-searching and improvement.

Finally, one of the major irritants from the students' perspective is the chaotic interview schedule: some firms recruit year round, others recruit only in the winter while still others only in the spring or summer; some firms hire students after first year for summer and articling positions while others

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A CLARIFICATION PLEASE AMBASSADOR LEWIS

By Glenn McDonald

Stephen Lewis' talk February 10 on current problems of international law was informative, entertaining, occasionally uplifting, and wholly unsatisfying.

it began with a shared assumption — that the UN and its international justice system have failed to work the miracles the world needs — out of which Ambassador Lewis deftly fashioned : "the beleaguered UN", struggling on as the Americans snatch up their marbles and go self-righteous; "the heroic UN", with a "political success" within its grasp after years of effort on the Afghan front.

Lewis listed recent positive UN accomplishments concerning terrorism, chemical weapons, and the World Court (a sudden hit with both the USSR and Canada); and he examined briefly the negative side of the ledger: the UN's inability to get the key players to discuss a nuclear test ban and the ever infamous US rejection of World Court jurisdiction on Nicaragua. Other sticky points quickly skirted included the perennial Iran/Iraq war and Israel's conduct in the occupied territories.

You win some, you lose some?

Did it go without saying that each of the UN successes submitted for our consideration could be interpreted rather less favourably? Surely, the point was worth stressing, for it affords a tidy way of understanding the apparent successes and failures together —

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Another Side of Coin
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rights through that prism. Who is a member of the human community, deserving of rights granted under the Charter, is a prior decision at which we must arrive through some kind of consensus.

One consensus we appear to have reached is that abortion is not an issue which should be kept in the Criminal Code. Of course, if we were to look very closely at most provisions in the Criminal Code, we would probably have serious misgivings about their inclusion. Be that as it may, juries in two provinces have shown their reluctance to convict Dr. Morgentaler in the face of indisputable evidence of his breaking the law. This seems to be a fair reflection that none of us wants to see abortion as a criminal issue.

The actual problem we face is how to deal with the burden cast upon women if abortion is considered to be the destruction of another person fully deserving of human rights. This is a problem which goes to the very roots of our culture for it entails how we look at families, the bonds of parent and child, and how we look at the political and social responsibility we must all assume to care for what will be our off-spring. It is no wonder we shrink from this task, preferring to cast the burden of the moral responsibility on the individual woman. Either way, at present, we cast all the responsibility on women.

The choice for women, at present, is not much of a choice. As a society, we say if you choose to have this child you are on your own but if you choose abortion we will back you up with an argument that is morally expedient and biologically laughable. It would be great to think that we are capable of more than that.

Our recent history has been the struggle for classes, races, infants, woman and the handicapped to be fully included in the human race. While we need not be very cynical to see that fairness has rarely followed the granting of status which makes us eligible for human rights, we cannot deny that it gives all of us a chance to correct unfairness. I hope that we can continue to expand our community and to open it to the fetus.

Montreal Law Firms...
Cont'd from p.5

wait until after graduation, and some firms don't even hire summer students at all.

Although the present system is advantageous to the larger firms who can afford to recruit all year, it certainly doesn't benefit very many students. All firms, large or small, can only leave job offers open for so long. How many firms are willing to wait six months or longer until a student has had the opportunity of interviewing with all the firms he/she may be interested in?

A recent attempt by various Montreal firms to institute a coordinated interview period failed when the larger firms refused to go along.

The Confédération des associations d'étudiants en droit (CADED) has taken up the cause and recently established a subcommittee to pursue the matter. If law firms don't care about students, then it will be up to students themselves to force the firms to replace the current state of affairs, possibly with a system similar to that used in Toronto and Vancouver, or that employed in Ottawa. Whatever the solution, it's clear that the present situation urgently needs reform.

Not all firms are guilty of the transgressions described above, but problem areas of one kind or another are sufficiently present in almost every firm's recruiting programme. It's high time Montreal firms realized that problems exist.

Montreal firms must change their attitudes towards students. They have to stop treating students like fungible commodities. Firms must begin to recognize that they are competing not just with each other but also with firms in Toronto, Ottawa, Vancouver and elsewhere.

If they want to retain the best students, then Montreal firms must bring their recruiting programmes into the twentieth century, even if it means, God forbid, emulating Toronto or New York. And that entails, among other things, treating students with the courtesy and respect any normal lawyer would accord to a colleague or client.

Lewis Lauds U.N.

By Teresa Scassa

With a combination of irreverent wit and outspoken opinion, Stephen Lewis, Canadian Ambassador to the United Nations, presented the Fourth Annual McGill Law Journal Lecture on the evening of February 10th.

Addressing an audience of lawyers, students and professors, Ambassador Lewis commented on his own brief experiences in the legal profession. Three weeks at the University of Toronto and three months study at Osgoode Hall had served to convince the younger Lewis of the basic incompatibility of legal institutions with his socialist principles. He found an outlet for his ideals in provincial politics where he rose to leadership in the Ontario New Democratic Party and became leader of the Official Opposition in the Legislature from 1975-1978. Lewis has been repeatedly recognized for his dedication and contribution to the cause of human rights, and for his "outspoken opinion and integrity" in broadcasting. He was appointed to the United Nations in 1984, and is Special Adviser on Africa to the Secretary-General of the United Nations.

Lewis had been invited by the McGill Law Journal to speak on the rather broad topic of "Contemporary Issues in International Law." He focussed his remarks on the role of the United Nations and the effect of foreign policy decisions upon international law.

Lewis observed that in an effort to silence the many detractors of the United Nations, that body had been seeking a political victory which would re-establish its worth in the eyes of the international community. According to Lewis, the possible end to Soviet occupation of Afghanistan might provide such a victory. Lewis outlined the contribution of the United Nations towards the resolution of that situation. First, repeated condemnations within the United Nations of the invasion and despoilation of Afghanistan served to "enormously discomfit" the Soviets. The second step involved the work of the Human Rights Committee which specifically condemned violations of human rights within Afghanistan. A special rapporteur chronicled abuses. His reports led to futher resolutions deploring the violations of human rights.

The third level of involvement by the United Nations in Afghanistan had to do with a series of behind the scenes negotiations by the UN Special Representative to bring the parties together in "proximity talks". Four instruments were eventually drafted. These included a blueprint for the eventual Soviet troop withdrawal. The talks also brought about a serious discussion of an interim or transitional government. Thus, observed Lewis, when the Soviet Union, for whatever internal reasons, decided it might get out of Afghanistan, all of the groundwork had already been accomplished by the United Nations.

Lewis also praised the special UN organs for their work in helping keep refugees alive in the many camps set up along the Pakistan borders. Lewis had just returned from Pakistan, where he observed first hand the conditions in the refugee areas.

Using the Afghan situation as an example of the worth and potential of the UN, Lewis then proceeded to discuss recent attempts to undermine the international organisation. He blamed its host country, the United States, for the "insidious erosion of the institutional base of the U.N." Lewis described the U.S. withholding of its assessment due to the U.N. as "fundamental wreckage". He discussed the reasons put forth by the U.S. for withholding the amounts due. The first reason was American insistence upon U.N. reform. Lewis described this approach as simple blackmail.

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Lewis Lauds U.N.
Cont'd from p.6

The second reason for withholding payments was based upon the terms of a U.S. deficit reduction act. The contribution to the United Nations was one of the expenses desired to be cut. Yet, Lewis observed, national matters of a fiscal or deficit reduction nature should not influence the performance of international treaty obligations.

Lewis also condemned the United States for their arbitrary cutback of Soviet personnel to the United Nations. While he conceded that valid reasons might exist for such a cutback, he stressed the need for the United States to act within established legal structures rather than to proceed in a unilateral manner. Lewis cited U.S. attempts to close the PLO observer mission to the U.N. as another example of the United States acting in disregard of its obligations under international accords.

Lewis proceeded to praise the Canadian approach to international obligations. According to Lewis, not only was Canada willing to abide by its obligations, it sought also to use the existing structures to actively promote certain objectives and ideals. He discussed Canada's role in maintaining a unanimously accepted definition of terrorism. He also commended Canada for persistence in the area of arms control and disarmament agreements, and for a "dogged" independence of opinion and action, often in the face of a contrary American stance.

Lewis' praise of Canadian behaviour in the international setting was effusive, and in contrast with his scathing criticism of American attitudes. Perhaps the descriptions on either side were too categorical. Nonetheless, they served to underscore Lewis' main theme. He argued that the role of the United Nations will be determined by the actions of its member states and their respective willingness to abide by their obligations and pursue common goals. In his closing remarks, he referred to states' contributions to international organisations as "civilizing and humanizing the human condition."

Speaker's Corner

Women and the Law

Wednesday, February 17, 12 noon,
Room 203

Me Miriam Grassby, "Women in the Legal Profession" series. Setting up an all-women law firm.

* * *

McGill Law and Policy Workshop

All workshops will be held at 12 noon in Room 202.

February 19
Guy Rocher, Université de Montréal,
"Pour une sociologie des ordres juridiques"

February 26
[Study week]

A Clarification Please...
Cont'd from p.5

that 42 years after the founding of the UN, the nations of the world still have their own separate interests at heart.

Would Canada now accept World Court jurisdiction over Arctic sovereignty if it wasn't sure of its legal advantage over its "begrudging" southern neighbour? Will Soviet enthusiasm for immutable international justice outlive glasnost? Does their current desire to back out of Afghanistan go any further than super power politics? — the q*uid pro quo* was spelled out at the Washington summit: a date on Afghanistan withdrawal in exchange for continuing arms negociations.

Where in all of this do we find multilateralism? And assuming we may thus dispense with the new international conscience, whither international justice?

"Pragmatic, specific acts and instruments to deal with specific manifestations of terrorism" were proferred that evening: *Convention for the Unlawful Seizure of Aircraft, 1970, International Convention Against the Taking of Hostages, 1979, Convention on the Physical Protection of Nuclear Materials, 1980,* ... the first signs of the new international conscience or band-aids on a worsening wound? And could we please have an interpretation of "international condemnation"? — does concern for human rights ever outweigh the political/economic imperative? ...questions worthy of consideration.

The Fourth Annual McGill Law Journal Lecture has come and gone, leaving us with memories of bold linguistic odysseys (in both official languages) and ... // a last, sultry line: Justice in the wings, waiting for her cue.

Free Trade...
Cont'd from p.1

more reliant on the American components industry. This in turn would make Canada a more unlikely place to establish manufacturing industries. Secondly, and on a brighter note, he predicted that consumer prices would drop with the removal of trade barriers.

Although the first panel mentioned the current round of GATT negotiations in passing , it did not raise one question that might have been addressed. That question is, why should Canada enter into a bilateral trade agreement if the same trade barriers can be removed multilaterally under the GATT? The FTA gives Canada an advantage over the other trading partners of the US. Will Canada's position remain as advantageous once other countries eliminate the same trade barriers with the US and Canada? Global trade liberalization has been an ongoing process for forty years under the GATT. What benefits will North American economic intergration give us that we cannot get globally?

Next issue:
Does the FTA guarantee access to the US market?

Femme et criminaliste: Au-delà du mythe ...

De Jeanne Cadorette

La pratique du droit criminel reste encore aujourd'hui une chasse-gardée presqu'exclusivement masculine. Pourtant de plus en plus de femmes se dirigent vers cette pratique depuis quelques années. Mais le droit criminel est toujours entouré d'une aura de mystère et c'est pour dissiper plusieurs mythes sans véritable fondement que le groupe **Les femmes et le droit** recevait le 10 février dernier Me Isabelle Schuman.

Pratiquant depuis 4 ans déjà Me Schuman a connu diverses expériences qui ont façonné sa vision de la pratique du droit criminel. Elle a d'abord travaillé pour l'Aide juridique où elle a appris à relever des défis très différents puisque tous les types de cas pouvaient lui être référés sans aucune distinction. Travailler à l'Aide juridique veut dire apprendre rapidement et la plupart du temps rencontrer son client au moment du procès. Me Schuman semble avoir été déçue de l'administration de l'Aide juridique. Le système faisait en sorte qu'aucune femme ne travaille assez longtemps pour être admise parmi les employés syndiqués; de cette façon on n'avait pas à payer de congés de maternité et aucun départ ne venait compromettre le partage du travail. Me Schuman est ensuite passée à la pratique privée où elle a oeuvré seule pendant quelque temps. Un fort pourcentage de femmes travaillent ainsi lorsqu'elles pratiquent le droit criminel. Me Schuman s'est jointe à l'étude Lapointe, Schachter et associés avec laquelle elle travaille actuellement.

Me Schuman a d'abord voulu nous rassurer sur la clientèle qu'elle côtoie. "Le droit criminel n'est pas synonyme de tractation avec le crime organisé." La plupart des clients sont des personnes qui ont affaire à la justice pour la première fois et qui agissent dans l'intensité du moment. Chez Lapointe, Schachter la politique du bureau fait en sorte qu'aucun des avocats n'accepte de représenter les personnes qui ont un dossier criminel trop volumineux ou celles qui font partie du crime organisé. Il est à souligner que chaque bureau décide du genre de dossiers qui seront traités pour ne pas ternir par exemple l'image du bureau. Mais à l'intérieur de ces paramètres assez larges Me Schuman ne fait aucune distinction quant au type de cause qu'elle défendra. Pour elle chaque accusé a droit à une défense pleine et entière et c'est à la Couronne de prouver la culpabilité de son client.

Pour Me Schuman les problèmes que peuvent rencontrer les femmes en droit criminel ne viennent que très rarement du client. Certains préféreront évidemment être défendus par un homme mais les autres apprennent très vite à respecter une avocate qui connait bien son droit. Les problèmes rencontrés viennent plus souvent de l'attitude des collègues masculins, des juges et aussi des gardiens de centres de détention. Les juges ne montrent pas tous ouvertement leur désapprobation face à l'arrivée des femmes comme procureurs en droit criminel mais parfois ils laissent voir par de simples remarques que, selon eux, la place de la femme n'est pas dans une cour de droit criminel (ou dans une cour de justice quelle qu'elle soit). Etre appelée Madame par le juge alors que votre collègue masculin est appelé Maître peut devenir irritant à la longue même si cela semble un détail. Selon Me Schuman il faut alors travailler deux fois plus fort et être très bien préparée pour que le juge n'ait d'autre alternative que de vous donner raison. La nomination de femmes à la magistrature semble selon Me Schuman apporter une nouvelle perspective à la prise de décision. C'est au bureau que parfois les choses se gâtent pour les femmes avocates. Leurs relations avec le personnel déjà en place depuis longtemps et habitué à travailler pour des hommes seulement peut parfois créer des problèmes d'autorité.

Me Schuman nous a bien renseignées sur la pratique du droit criminel qu'elletrouve très stimulante. Les femmes connaissent encore des problèmes à se faire accepter mais ces problèmes doivent être vus selon elle comme des étapes dans une pratique en pleine évolution. Plus il y aura de femmes en droit criminel plus cette pratique reflétera l'accession des femmes aux traditionnels bastions masculins.

Letter to the EDITOR

Dear Ms. Scassa,

Re: Law School Minimum Height Requirement

You have opened wounds it has taken years of hard work to heal. Many thousands of dollars have been spent on primal scream therapy helping me overcome my terrible disability.

Thanks alot.

Susan (Shorty) Coristine

INF: A STEP IN THE RIGHT DIRECTION

By Terry Pether

Lawyers for Social Responsibility invited three McGill professors to speak last Monday to a large group of students about the INF Treaty recently signed in Washington D.C. by Ronald Reagan and Mikhail Gorbachev. Professors Arlene Broadhurst, Ivan Vlasic and Stephen Toope all agreed that this arms reduction accord between the United States and the Soviet Union will lead to enhanced global security.

Professor Broadhurst opened the discussion by tracing the chronology of events in this latest peace process. In 1977, German Chancellor Helmut Schmidt made a speech in which he called for increases in European theatre weaponry;. Schmidt's concerns, said Broadhurst, led NATO to adopt in 1979 its so-called "two-track" proposal, a plan which urged a nuclear arms limitation agreement with the USSR while calling for the modernization of conventional forces.

Continuing her brief history of the steps which eventually resulted in the INF Treaty, Broadhurst reminded her audience of Reagan's "zero option", proposed by the President in 1981. This plan was impeded by Soviet concern over Britain's and France's reluctance to give up European-based weapons and the reciprocal fear of the Western allies that they could not be assured that Soviet missiles removed from Eastern Bloc installations would not be redeployed inside Asia. Finally, ongoing peace talks collapsed in 1985 over a U.S. decision to deploy new missiles on European soil, and it was not until July of that year, said Broadhurst, that the impasse was broken by Secretary Gorbachev's "zero proposal", a plan to eliminate all intermediate-range missiles.

Throughout the subsequent round of negotiations, disagreements persisted between the two sides right up to the Réykjavik Summit over whether to include short-range missiles as well as over whether to include European systems. This summit at Iceland was not the debacle it was reported to be said Broadhurst. Indeed, from this meeting arose concrete proposals to embrace both short and long-range missiles in any agreement. Soon afterwards, both sides drafted treaties which ultimately coalesced as the Global Agreement, supported by NATO. And in August of 1987, Germany, France and England finally agreed to have European-based weapons negotiated by the superpowers to set the stage for the INF Treaty signing in November of last year.

The INF Treaty, Broadhurst indicated, will eliminate nine different short and long-range weapons systems over a period of three years. The elimination will not include warheads or guidance systems, but only the actual missiles. Still, said Broadhurst, without delivery systems, the risk of nuclear catastrophe is reduced. Thus, the peace movement, she added, should not be so disappointed at what the Treaty does not accomplish as to diminish what it does accomplish.

The INF Treaty leaves untouched ground-launched missiles of different classes as well as other nuclear arsenals. Research and development in booster stations will continue and production facilities for weapons excluded by the agreement will not be subject to inspection. But those systems which are covered by the Treaty are carefully defined. Furthermore, there are restrictions on locations where the weapons are to be taken for inspection and subsequent elimination, away from test and support facilities. There is a nuclear risk reduction centre (established by an earlier treaty) which will serve to exchange data between verification teams regarding the movement and elimination of weapons. And there are detailed programs for the destruction of missiles, complemented by a thirteen year inspection period. Finally, the Treaty's duration is unlimited. Even though it contains the standard "national sovereignty clause", which would allow either signatory to withdraw from the treaty's provisions, in this treaty, the withdrawing party must identify that "extraordinary events related to the treaty have jeopardized [the state's] overriding interests".

The preamble to the INF Treaty sets out its purposes as being to strengthen strategic security while reducing the risk of nuclear war. The Treaty also serves to soften criticism that the superpowers have failed to meet their obligations under the Nuclear Non-Proliferation Treaty, designed to prevent the spread of nuclear weaponry to non-holding states.

According to Broadhurst, the Treaty will foster greater security. She cautioned students to read the words of the document closely and to avoid the misinformation of the press and the peace movement. Agreeing that the INF Treaty is not a panacea for peace, Broadhurst added that it is not the mere scrapping of already obsolete weapons either. And even if this round of eliminations leads to renewed competition over new technologies, said Broadhurst, the INF Treaty is an acceptable alternative to no treaty at all.

Professor Vlasic stressed that the INF Treaty, if ratified, will represent the first time ever that nuclear weapons will be voluntarily destroyed. Indeed, up until now, any treaties have only reduced numbers of weapons.

Impressed with the Treaty's verification measures, Vlasic noted that "intrusive" on-site inspection had been a Soviet stumbling block for twenty-five years. The Soviet Union, he said, had always opposed on-site inspection and even accused the United States of artificially inflating the verification requirement merely to stall the peace proc-

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ess. But the ascension of Gorbachev to the Soviet leadership, said Vlasic, opened a new era in Soviet attitudes to on-site inspection.

Calling the verification scheme "revolutionary", Vlasic noted that the INF Treaty even provides for inspectors to visit weapons factories. And aside from stipulated "national technical means", radar and satellites, there is always, Vlasic added, just plain spying. In any event, he concluded, verification is no longer something new, thus it will apply to other areas of arms control such as biochemical warfare.

Professor Toope began his remarks by praising the INF Treaty as an important process of confidence building, as an example that good faith and agreements are possible. And even though the Treaty, at best, applies to only five per cent of each side's total nuclear force, said Toope, it does not serve us well to complain that there are no agreements and then, once there finally is one, to complain that it is no good.

Toope went on to explain that there is no risk that the Treaty will not be implemented from the Soviet side so long as Gorbachev remains leader; however, there are obstacles to Congressional ratification in the United States. Toope dismissed fringe elements of the "loony right" such as Republican Senator Jesse Helms as no cause for concern. It is influential Democrats like Head of the House Armed Services Committee, Senator Sam Nunn and Senator Joseph Biden who threaten the INF Treaty, seeing ther treaty ratification process as an opportunity to force SDI into the provisions of the 1972 Anti-Ballistic Missile Treaty. That treaty prohibits the testing and deployment of space-based, anti-ballistic missile systems.

The Reagan administration, said Toope, interprets the 1972 Treaty as excluding the Star Wars shield defence system from its definition of component parts of anti-ballistic missile systems. This debate between White House and Senate has raised the issue of the constitutionality of treaty re-interpretation within the Executive/Senate division of powers context. A subsidiary issue raised, said Toope, is to what extent must the Senate rely upon the administration's interpretational testimony, and to what extent are future administrations bound to those initial interpretations?

Speculating that the Democrats will not ultimately prevent ratification of the Treaty, Toope added that so far the debate has only been represented by a series of angry letters between Senator Nunn and Secretary of State George Schultz. Still, he concluded, where hopes for disarmament are held hostage by American politics, the confidence-building aspect of the INF Treaty will be undercut.

Dear Abby Initio

Dear Abby Initio,

I am shocked at the innuendo splattered all over your column last week! Where do you get off writing such stuff? I hope this letter will prevent such outbursts from occurring again.

Signed,
Incensed

Dear Incensed,

I am not sure how I can respond to your prophylactic desires. All I can promise is to try to keep things closer to my chest and play these words games more safely in the future. I'll try to be more responsive to the needs of my readers.

CAPTION CONTEST #4:

Submissions accepted until March 2, 1988 at 1PM, just slide them under the *Quid Novi* door. Hope to see yours there!